

EXHIBIT O

In The Matter of the Claim of

ERIC K. MERRING

against

The Town of Tuxedo Police Department and The Town of Tuxedo

AMENDED NOTICE OF CLAIM

TO: Hon. Peter Dolan
Town Supervisor
Town of Tuxedo
Town Hall
1 Temple Road
Tuxedo Park, NY 10987

Hon. Elaine Laurent
Town Clerk
Town of Tuxedo
Town Hall
1 Temple Road
Tuxedo Park, NY 10987

PLEASE TAKE NOTICE, that ERIC K. MERRING has a claim and hereby makes this claim against the Town of Tuxedo Police Department and the Town of Tuxedo, for damages sustained by him on account of a violation of his rights and civil rights under New York State and Federal Law, and under the New York State and the United States Constitutions, and in support thereof, the claimant states:

1. The post office address of the claimant is 343 Bob Holloway Road, Delancy, NY 13752.

2. The name and address and telephone number of the attorney for the claimant are Lee David Klein, Esq., 11 Market Street, Suite 204, Poughkeepsie, New York 12601, 845-454-9200.

3. The claim is for personal injuries and damages sustained by said

claimant through the actions of certain police officers and members of the Town of Tuxedo Police Department, who acted in violation of the said claimant's rights under New York State and Federal Law and under the New York State and the United States Constitutions, and through the negligence of the Town of Tuxedo, as hereinafter set forth.

4. The time when the claim arose and the time when the injuries hereinafter alleged were sustained were approximately 9:00 a.m., on December 4, 2006. The particular places of the sustaining of the injuries resulting in the claim hereby were on Stone Ridge Road, in the Town of Tuxedo, County of Orange, State of New York, off of south bound Route 17; inside of a Town of Tuxedo Police Department motor vehicle, in route from the aforesaid location to the Town of Tuxedo Police Department headquarters, located at 1075 State Route 17, Town of Tuxedo, New York 10987; and inside the Town of Tuxedo Police Department headquarters.

5. The manner in which said claim arose is as follows:

a. Claimant, possessing a valid New York State driver's license and a valid New York State "carry" pistol permit, was operating his motor vehicle in the Town of Tuxedo on south bound Route 17. A uniformed member of the Town of Tuxedo Police Department, in a marked police vehicle, . undertook a vehicle and traffic stop, and the claimant pulled over just past the Duck Cedar Inn on Stone Ridge Road in the Town of Tuxedo. The officer pulled in behind the claimant. The officer, in an angry manner, asked for the claimant's driver's license, registration, and insurance card, and the claimant complied. Claimant advised the officer that he was carrying a duly licensed handgun and that he had it on his person. The officer inquired as to a reason for his being

armed. The claimant advised that he has a full carry permit, and that he was on his way to his employment at a sporting goods store. The officer claimed that this was not a valid reason. The officer made a cellular phone telephone call, and another Town of Tuxedo Police vehicle pulled in behind the claimant with emergency lights flashing. A Town of Tuxedo Police Sergeant approached the vehicle and inquired as to the reason that claimant was carrying his duly licensed handgun. The claimant responded in the same manner that he responded to the previous officer, that he has a full unrestricted license to carry a handgun in New York State, issued by Delaware County, and that he was also on his way to his employment at a sporting good store, which sells firearms. The Sergeant replied that that was not a valid reason. The Sergeant directed the claimant to step out of his vehicle. The claimant asked why, and exited his vehicle. The Sergeant then conducted a search of the claimant's person. The Sergeant removed the handgun from its holster on the person of the claimant. The Sergeant then began to search the claimant, and retrieved a legal folding knife, and claimed it was an illegal knife, claiming that it was a gravity knife, which can be opened by gravity or centrifugal force. The Sergeant then advised the claimant to put his hands behind his back and advised him that he was under arrest. When the claimant inquired on what charge, the Sergeant advised him that he was in possession of a gravity knife, which is illegal in New York State. The claimant was then placed in handcuffs behind his back and placed in the back of the Police Officer's patrol car. Then, without any consent from the claimant, both the Sergeant and the Police Officer conducted an illegal search of the claimant's motor vehicle, retrieving an old stick. The Sergeant advised the claimant that he was going to be charged for that as well. The

Sergeant inquired repeatedly thereafter as to the claimant's valid reason for having a firearm on his person, to which claimant responded repeatedly that he had a full unrestricted license to carry a firearm, in response to which the Sergeant claimed that he did not have a valid reason for being armed. The Sergeant inquired as to whether the claimant had any weapons at his girlfriend's house, and asked him if there any automatic weapons there, to which the claimant responded in the negative. The Sergeant inquired as to the licensing process in New York State, to which the claimant responded as best as he could. The claimant's vehicle was towed by the Police Department without his permission.

b. The claimant was taken in the Police Officer's motor vehicle to the Town of Tuxedo Police Department.

c. The Police Officer directed the claimant to sit down at a desk. The Sergeant then presented the claimant with a copy of the New York State Penal Law and directed the claimant to read it. The claimant did and advised that it did not apply to him. The Sergeant got angry and told the claimant: "Yes, it fucking does. I've been doing this for eleven (11) years. I know what I am doing. Eight (8) of those years as Sergeant." The claimant removed his gun belt, emptied his pockets, and then the Sergeant directed the claimant to a holding cell. The claimant was then held in a holding cell. The Sergeant repeatedly came to the claimant, inquiring as to the licensing system for handguns in New York State. The Sergeant responded that he did not like guns, that he hated guns, that he hated the fact that the claimant had a gun and that the claimant was "with the NRA." The claimant responded that the Sergeant had a gun. The Sergeant

responded, in sum and substance: "I am a good shot."

d. Approximately twenty (20) minutes later, the Sergeant came, opened the door, and the claimant was subjected to the booking process, including fingerprinting and photographing, and then was seated with the Sergeant for further paperwork regarding arrest processing to be finalized. The Sergeant directed the claimant to post \$100.00 bail. It was only at that time that the Police Officer advised about the speeding ticket, claiming that claimant was going 69 mph in a 55 mph zone, and then the Police Officer yelled loudly at the claimant: "Get out of my office." The claimant was allowed to leave after he had been charged with a violation of Penal Law Section 265.01, criminal possession in the fourth degree, a Class A misdemeanor, and given an appearance ticket for the same, directing him to appear in the Town of Tuxedo Justice Court on December 28, 2006, at 4:30 p.m. Copies of the Information and Appearance Ticket are annexed hereto as Exhibit A. Claimant was also issued a Uniform Traffic Ticket No.: MDT200533K, charging him with Vehicle and Traffic Law Section 1180(b), speed over 55 mph zone, going 72 mph in a 55 mph zone, a traffic infraction. A copy of said Uniform Traffic Ticket is annexed hereto as Exhibit B.

e. On January 25, 2007, before the Hon. Hume Styer, Town of Tuxedo Justice Court, both of the aforesaid charges were resolved as follows: the claimant pleaded guilty to a violation of Vehicle and Traffic Law Section 1201(a), stopping or parking on the pavement, a traffic infraction, and a fine of \$100.00 was imposed, which was paid by the claimant at Court. The charge of criminal possession of a weapon in the fourth degree, the Class A misdemeanor, under Vehicle and Traffic Law

Section 265.01, was dismissed. A copy of the Certificate of Disposition is annexed hereto as Exhibit C.

6. Claimant was the subject of an unlawful, unwarranted, and illegal detention and arrest, and an unlawful, unwarranted, and illegal search and seizure of his motor vehicle and of his personal property.

7. Claimant suffered the pain and humiliation of publically being taken into police custody; placed in handcuffs; placed in the back of a police vehicle; transported to the Town of Tuxedo Police Department; subjected to the arrest and bookkeeping process; being placed in a holding cell; being required to be fingerprinted and photographed; suffered humiliation and harassment for the repeated inquiries by members of the Town of Tuxedo Police Department regarding the claimant's lawful behavior; suffered being deprived of his personal property with no legal basis in violation of his civil rights pursuant to the Constitutions and law of both New York State and the United States; suffered the damages of having to retrieve his towed vehicle, reflected in a receipt from Tuxedo Autobody, Inc., dated December 4, 2006, a copy of which is annexed hereto as Exhibit D; suffered the consequences of being falsely arrested and falsely charged; and sustained the damages of incurring legal fees for legal counsel to represent him in defending against these unwarranted charges. All of the foregoing caused the claimant to sustain injuries and personal injuries.

8. Upon information and belief, said Police Officer and/or Sergeant notified the Delaware County Sheriff regarding such arrest, resulting in an Order being issued by a Delaware County Judge, a copy of which is annexed hereto as Exhibit E,

suspending claimant's pistol permit, reflecting a conspiracy on the part of said officers to deprive claimant of his civil rights, his rights under New York State and federal law and the New York State and United States Constitution.

9. The said personal injuries and damages were caused wholly and solely as a result of the intentional unlawful acts of the members of the Town of Tuxedo Police Department, and the negligence of the said Department and the Town of Tuxedo in that its agents, employees, and servants, failed to take proper precautions to ensure that such illegal detention, arrest, and search, did not take place, and that the illegal and false arrest not occur, and that their personnel were not properly trained and supervised in connection with the lawful manner in which such matters should be handled.

10. Claimant solely by reason of the illegal acts and misconduct of the Town of Tuxedo Police Officers and the negligence of the Town of Tuxedo as aforementioned sustained the following injuries: embarrassment and public humiliation; unlawful deprivation of his personal property and unlawful detention of his person; false arrest in violation of his rights under New York State and Federal law and the New York State and United States Constitutions.

WHEREFORE, claimant requests that the said Town of Tuxedo Police Department and the Town of Tuxedo honor and pay the claim of ERIC K. MERRING.

Dated: Poughkeepsie, New York
March 31, 2008


ERIC K. MERRING

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF DUTCHESS)

ERIC K. MERRING, being duly sworn, deposes and says:

I am a claimant in the within action; I have read and know the contents of the foregoing NOTICE OF CLAIM; and the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief; and as to those matters, I believe it to be true.


ERIC K. MERRING

Sworn to before me this
3/5/ day of March, 2008.


Notary Public

LEE DAVID KLEIN
Notary Public, State of New York
Qualified in Dutchess County
Commission Expires Oct. 14, 2010

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against

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AMENDED NOTICE OF CLAIM

LEE DAVID KLEIN, ESQ.
Attorneys for Claimant
Office and Post Office Address, Telephone
11 Market Street, Suite 204
Poughkeepsie, New York 12601
(845) 454-9200

PLEASE TAKE NOTICE

_____ that the within is a (certified) true copy of a entered in
Notice of the Office of the Clerk of the within named Court on
Entry

_____ that an Order of which the within is a true copy will be
Notice of presented for settlement to the Hon.
Settlement one of the Judges of the within named Court, at
, on a.m./p.m.